

new approach to the application or attempt to reorient the point of view of the previous examiner, or make a new search in the mere hope of finding something. See MPEP § 719.05.

704.10 [R-3] Requirements for Information

37 CFR 1.105. Requirements for information.

(a)

(1) In the course of examining or treating a matter in a pending or abandoned application filed under 35 U.S.C. 111 or 371 (including a reissue application), in a patent, or in a reexamination proceeding, the examiner or other Office employee may require the submission, from individuals identified under § 1.56(c), or any assignee, of such information as may be reasonably necessary to properly examine or treat the matter, for example:

(i) *Commercial databases* : The existence of any particularly relevant commercial database known to any of the inventors that could be searched for a particular aspect of the invention.

(ii) *Search* : Whether a search of the prior art was made, and if so, what was searched.

(iii) *Related information* : A copy of any non-patent literature, published application, or patent (U.S. or foreign), by any of the inventors, that relates to the claimed invention.

(iv) *Information used to draft application* : A copy of any non-patent literature, published application, or patent (U.S. or foreign) that was used to draft the application.

(v) *Information used in invention process* : A copy of any non-patent literature, published application, or patent (U.S. or foreign) that was used in the invention process, such as by designing around or providing a solution to accomplish an invention result.

(vi) *Improvements* : Where the claimed invention is an improvement, identification of what is being improved.

(vii) *In Use* : Identification of any use of the claimed invention known to any of the inventors at the time the application was filed notwithstanding the date of the use.

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(viii) *Technical information known to applicant* . Technical information known to applicant concerning the related art, the disclosure, the claimed subject matter, other factual information pertinent to patentability, or concerning the accuracy of the examiner's stated interpretation of such items.<

(2) Where an assignee has asserted its right to prosecute pursuant to § 3.71(a) of this chapter, matters such as paragraphs (a)(1)(i), (iii), and (vii) of this section may also be applied to such assignee.

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(3) Requirements for factual information known to applicant may be presented in any appropriate manner, for example:

(i) A requirement for factual information;

(ii) Interrogatories in the form of specific questions seeking applicant's factual knowledge; or

(iii) Stipulations as to facts with which the applicant may agree or disagree.<

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(4) Any reply to a requirement for information pursuant to this section that states either that the information required to be submitted is unknown to or is not readily available to the party or parties from which it was requested may be accepted as a complete reply.

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(b) The requirement for information of paragraph (a)(1) of this section may be included in an Office action, or sent separately.

(c) A reply, or a failure to reply, to a requirement for information under this section will be governed by §§ 1.135 and 1.136.

An examiner or other Office employee may require from individuals identified under 37 CFR 1.56(c), or any assignee, the submission of such information as may be reasonably necessary to properly examine or treat a matter in a pending or abandoned application filed under 35 U.S.C. 111, in a pending or abandoned application that has entered the national stage under 35 U.S.C. 371, in a patent, or in a reexamination proceeding. The scope of 37 CFR 1.105 is extended to any assignee because the